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BOOK REVIEWS.

A FIRST BOOK OF JURISPRUDENCE. For Students of the Common Law. By SIR FREDERICK POLLOCK, Bart. London: Macmillan & Co., Ltd. New York: The Macmillan Co. 1896. Price, \$1.75.

Its authorship is a sufficient guaranty of the value of this book. As the maker of a series of text-books and treatises on various branches of the common law, Sir Frederick Pollock is well known to all American lawyers, and to the greater part of the large student body. These books have from the first been authorities; they are written in a style that is admirably perspicuous, yet not prolix. The matter of this new work is set forth in the same clear manner. It is "not intended to lay out a general system of the philosophy of law, nor to give a classified view of the whole contents of any legal system," but is for the student beginning the study of law. Certain legal conceptions and distinctions, which are usually unexplained to the novice, yet are assumed to be familiar to him, are here treated at length; and the reader is soon led to realize the legal point of view and the legal habit of mind.

The volume consists of two parts which are more or less independent of each other, so that either one may be read first, or even alone. The general title of Part I. is, Some General Legal Notions, embracing chapters on The Nature and Meaning of Law; Justice According to Law; The Subject-Matter of Law; Divisions of Law; Persons; Things, Events and Acts; Relation of Persons to Things; Possession and Ownership; Claims of Persons on Persons; Relation of Obligations to Property.

Part II. deals with Legal Authorities and Their Use. The divisions of this part are headed: The Express Forms of Law; The Sources of English Law; Sovereignty in English Law; Custom in English Law; Law Reports; Case Law and Precedents, and Ancient and Modern Statutes.

This is a bridge which may well lead from the studies that make for a liberal education to the more rigid and serious study of the law, so that the student who wishes to start as clearly as possible will possess himself of Pollock's *A First Book of Jurisprudence*.

D. P. H.

ELEMENTS OF THE LAW OF CONTRACTS. By EDWARD AVERY HARRIMAN, Professor of Law in the Northwestern University Law School. Boston: Little, Brown & Company. 1896.

This book belongs to the Students' Series. It more than sustains the high reputation which that Series has established for itself. It

is difficult to conceive of a more satisfactory treatment of the subject with which the author deals than that which is to be found in the three hundred pages of Professor Harriman's little volume. The lover of scientific analysis and orderly development cannot but take pleasure in the arrangement of the work as exhibited in the Table of Contents. Beginning with an introduction upon "The Nature of Contractual Obligation" and "The History of Contractual Actions," the eleven chapters of the work follow one another in this order: "The Formation of Contract;" "Illegal Contracts;" "Joint and Several Contracts;" "Conditions;" "The Construction of Contracts;" "The Statute of Frauds;" "The Operation of Contract;" "Rescission of Contract;" "The Assignment of Contract;" "The Discharge of Contract" and "The Enforcement of Contract." As regards the legal theory in accordance with which this arrangement has been determined upon, the author shall speak for himself. "First," he says in his preface, "comes the recognition of the fact that contractual obligation in English law may be due to the act of one party or of two; or to use my own terminology, may be unifactoral or bifactoral. Second, I have carefully separated the facts which are essential to the formation of contract from those which merely affect the validity of contracts when formed. Third, I have treated all voidable contracts under the one head of Rescission. In my treatment of Rescission I have derived great assistance from Mr. Bigelow's treatment of that subject in his work on Fraud. Fourth, I have endeavored to reduce all rules of Offer and Acceptance to rules of Consideration, in accordance with the suggestion made by Mr. Justice Holmes in his work on the Common Law. Fifth, I have treated under the head of the Construction of Contracts certain subjects like Impossibility which are ordinarily treated elsewhere. Sixth, I have tried to shed some additional light on the difficult subject of Conditions. Seventh, I have sought to give an adequate account of the nature and results of the judicial legislation by which, in many States, a stranger to a contract is permitted to sue upon it—a doctrine which is one of the least intelligible and least understood of any in our law of Contracts."

In this book we have a distinct and important addition to the literature of contract law. From the statement cited above, it is evident that the author has brought to his task a discriminating and analytical mind and a clear conception of the importance of reducing his subject to scientific form. This conception has been ever present with him and in his several chapters he has explained with admirable clearness "the rules of positive contract law which are to-day enforced by the Courts of England and the United States, in accordance with the actual historical development of those rules."

Not only has Professor Harriman shown himself to be possessed of the ability requisite for the accomplishment of his purpose, but his whole book shows that he has the industry and capacity for research, without which his task would have been an impossible

one. In preparing his history of contractual actions, he has had the wisdom to draw largely from the scholarly "History of Procedure" by Mr. Bigelow, and from the learned articles contributed to the pages of the *Harvard Law Review* by Professor Thayer and Professor Ames. He has kept in touch with the latest additions to the literature of his subject, and references are numerous to Pollock and Maitland's History of English Law. He has resisted with admirable determination what must have been the constant temptation to dwell longer than was consistent with the symmetry of his treatise upon particular portions of his work. On every page there are fresh evidences of the author's truly remarkable powers of condensation and concise statement. An admirable illustration of this is the opening paragraph of the chapter on the Construction of Contracts. In the paragraphs that follow he has compressed within narrow limits the general rules of construction, and has treated in most satisfactory fashion the difficult subjects of "Impossibility," "Reasonableness," "The Essence of the Contract," "Penalties and Liquidated Damages," and "Notice." The chapter in which the author is seen, perhaps, at his best is Chapter IV. on "Conditions." In this chapter the reader will find good specimens of the author's analytical ability, of his critical faculty and his capacity for clear statement.

The book is intended to be used in connection with a study of cases. In addition, therefore, to the references to the original reports, the author has added references to Langdell and Williston's Cases on Contracts and to Huffcut and Woodruff's American Cases on Contract. With either of these admirable collections of cases in hand and with Professor Harriman's little book to guide him, the student will be able to find his way far more readily than has heretofore been possible through the mazes of our contract law.

G. W. P.

ELEMENTS OF THE LAW OF TORTS. By MELVILLE M. BIGELOW, Ph. D., LL. D. Sixth Edition. Boston: Little, Brown & Company. 1896.

This standard work, as it now appears, is in reality a new contribution to the subject by virtue of the contents of the opening chapters in which the author presents a general doctrine or theory of the law of torts based on what he styles "primary forces or elements of liability," to wit: (1) fraud or malice, as means or motive to conduct; (2) intention, considered without regard to means or motive; (3) negligence. The subject is now considered with reference to this general doctrine, specific torts being classified according to these primary elements of liability.

The author commends the division of duties made by Mr. Harriman in his work on contracts into "consensual or recusable" and "irrecusable or paramount," giving rise in the first instance to the domain of contract and in the second to the domain of torts, and